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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,992	07/30/2003	Ronald C. Elliott	ECC-02200	2200
28960	7590	09/17/2004	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			OLSON, LARS A	
			ART UNIT	PAPER NUMBER

3617

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/631,992

Applicant(s)

ELLIOTT ET AL.

Examiner

Lars A Olson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-35 is/are allowed.
- 6) ☒ Claim(s) 1-31, 36 and 38-42 is/are rejected.
- 7) ☒ Claim(s) 37 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01292004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 7 and 8 recite the limitation "The plastic storage bin" in line 1. There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 6, 9, 10 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Siebe (US 1,761,995).

Siebe discloses the same storage bin as claimed, as shown in Figures 1-5, that is comprised of a container, defined as Part A, with a chamber for storing, a label holder, defined as Part #1, that is configured to rotatably and detachably couple with said container, as shown in Figures 1-3, and configured to hold and allow insertion and

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removal of a label, defined as Part #5, and a label securing structure, defined as Part #9, that is configured to detachably couple said label holder to said container.

6. Claims 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartman (US 2,908,985).

Hartman discloses the same plastic storage bin as claimed, as shown in Figures 1-7, that is comprised of a hollow body with front and rear ends, as shown in Figures 1 and 2, and a first securing structure, defined as Part #8, on said front end, as shown in Figure 2, and a label holder, defined as Part #10, with a second securing structure, defined as Part #11, where said first and second securing structures are configured to mate and detachably secure said label holder with said hollow body, as shown in Figure 2.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 8, 14-16 and 38-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siebe.

Siebe, as set forth above, discloses all of the features claimed except for the use of a label with a size range of 3"x5" to 8.5"x11", and a label holder made from a clear material, or a semi-rigid or rigid plastic.

The use of a label of a specific size would be considered by one of ordinary skill in the art to be a design choice based upon the dimensions of the object on which said label is to be placed, and the desired size of the indicia to be placed on said label.

The use of a label holder made from a clear material, or a semi-rigid or rigid plastic material, would also be considered by one of ordinary skill in the art to be a design choice based upon the required strength and flexibility of said label holder, as well as the desired light transmissivity characteristics of said label holder.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a label of a specific size and a label holder made from a clear, semi-rigid or rigid plastic material in combination with the label holder as disclosed by Siebe for the purpose of providing a label holder for a storage bin that is light and flexible, and capable of supporting a label of a specific size.

9. Claims 2-5, 11, 13 and 20-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siebe in view of Wolters et al. (US 4,373,642).

Siebe, as set forth above, discloses all of the features claimed except for the use of a container with a lid that creates a positive seal with said container, and a tab that is configured to facilitate removal of said lid from said container.

Wolters et al. discloses a storage bin, as shown in Figures 1-8, that is comprised of a rectangular-shaped container, defined as Part #10, and a lid, defined as Part #34, that is configured to mate with said container in order to create a positive seal, as shown in Figure 1. Said lid is further comprised of a tab, defined as Part #30, that is configured to facilitate removal of said lid from said container.

The use of a label of a specific size would be considered by one of ordinary skill in the art to be a design choice based upon the dimensions of the object on which said label is to be placed, and the desired size of the indicia to be placed on said label.

The use of a container made from a specific homogenous material would also be considered by one of ordinary skill in the art to be a design choice based upon the required strength and flexibility of said container.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a container with a lid and a tab, as disclosed by Wolters et al., in combination with the storage bin and label holder as disclosed by Siebe for the purpose of providing a storage bin with a lid that both provides a secure seal with said storage bin, and is easier to remove from said storage bin.

10. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siebe in view of Hartman.

Siebe, as set forth above, discloses all of the features claimed except for the use of a storage bin with one or more handles.

Hartman discloses a storage bin, as shown in Figures 1-7, that is comprised of a rectangular-shaped container with integrally formed inner and outer walls, as shown in Figure 1, and one or more handles, defined as Part #12, that are coupled to said container, as shown in Figures 2 and 3.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a storage bin with one or more handles, as taught by Hartman, in combination with the storage bin and label holder as disclosed by Siebe for

the purpose of providing a storage bin with handles that facilitate lifting of said storage bin.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman in view of Siebe.

Hartman, as set forth above discloses all of the features claimed except for the use of a label holder that is configured to allow a card to be inserted and removed therefrom.

Siebe, as previously cited, discloses a storage bin that is comprised of a container, defined as Part A, a label holder, defined as Part #1, that is configured to rotatably and detachably couple with said container, as shown in Figures 1-3, and configured to hold and allow insertion and removal of a label, defined as Part #5, and a label securing structure, defined as Part #9, that is configured to detachably couple said label holder to said container.

The use of a label of a specific size would be considered by one of ordinary skill in the art to be a design choice based upon the dimensions of the object on which said label is to be placed, and the desired size of the indicia to be placed on said label.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a label holder that is configured to allow a label card to be inserted and removed therefrom, as taught by Siebe, in combination with the storage bin as disclosed by Hartman for the purpose of providing a storage bin with a label holder that is capable of removably securing a label in order to facilitate the changing of said label.

***Allowable Subject Matter***

12. Claims 32-35 are allowed.
13. Claims 37 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wolpa (US 5,992,073) discloses a container with a label holder that is adhesively secured to an outer surface of said container. Swinger (US 5,285,900) discloses a storage container with a removably securable label portion. Stein (US 4,405,057) discloses a storage container with a detachably coupled label holder. Bult, III (US 3,650,055) discloses a reversible sign that is configured to rotatably and detachably couple with a support plate. Phelps (US 3,321,855) discloses a label holder that is configured to removably secure a label card to a surface.

15. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

September 9, 2004

LARS A. OLSON  
PATENT EXAMINER

*Lars Olson*  
9/9/04